

DANIEL JOHNSON, JR., State Bar No. 57409
RITA E. TAUTKUS, State Bar No. 162090
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126
Tel: 415.442.1000
Fax: 415.442.1001
E-mail: djohnson@morganlewis.com
E-mail: rtautkus@morganlewis.com

Attorneys for Defendant and Counterclaimant
BIOSEARCH TECHNOLOGIES, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LIFE TECHNOLOGIES CORP.,

Plaintiff,

vs.

BIOSEARCH TECHNOLOGIES, INC.,

Defendant.

Case No. 10-CV-2665 JAH (MDD)

**DECLARATION OF DANIEL JOHNSON,
JR. IN SUPPORT OF BIOSEARCH
TECHNOLOGIES, INC.'S *EX PARTE*
APPLICATION TO RESCHEDULE
EARLY NEUTRAL EVALUATION
CONFERENCE**

BIOSEARCH TECHNOLOGIES, INC.,

Counterclaimant,

vs.

LIFE TECHNOLOGIES CORP.

Counterclaim-
Defendant.

1 I, Daniel Johnson, Jr., declare and state as follows:

2 1. I am an attorney licensed to practice law in the State of California, and a partner
3 with the law firm Morgan, Lewis & Bockius LLP, counsel of record for Defendant and
4 Counterclaimant Biosearch Technologies, Inc. ("Biosearch") in this action. I am familiar with
5 this case and, if called upon, could testify to the following facts.

6 2. Counsel for Plaintiff and Counterclaim Defendant Life Technologies, Inc. ("Life
7 Tech") was notified on May 24 that Biosearch is filing this *Ex Parte* Application. On May 25,
8 counsel for Life Tech responded by email that it does not object to the *Ex Parte* Application. On
9 May 26, counsel for Life Tech provided dates for Life Tech's unavailability.

10 3. Biosearch President and CEO, Dr. Ronald Cook, is scheduled to be on a pre-
11 planned family vacation from June 20-29, 2011.

12 4. I am scheduled for a three-week trial in the Eastern District of Virginia that begins
13 July 12, 2011. This will require travel to Virginia no later than July 7, 2011.

14 5. Biosearch and Life Tech are scheduled for a claim construction hearing on August
15 23, 2011, in the Eastern District of Texas in another patent infringement lawsuit brought by Life
16 Tech and Applied Biosystems, LLC against Biosearch and other defendants. This will require
17 related travel to and from Marshall, Texas on August 22 and August 24.

18 6. Dr. Cook cannot attend an ENE hearing for the following dates in September:
19 September 2-9, 2011.

20
21 Dated: June 1, 2011

s/ Daniel Johnson, Jr.
Daniel Johnson, Jr.